

§ 757.6

loss or damage sustained by such an activity, a notation to this effect shall be included in any claim file forwarded to the Judge Advocate General.

(j) *Replacement in kind or repair.* The responsible party, or insurer, may want to repair or replace in kind damaged property. The commanding officer or officer in charge of the activity sustaining the loss is authorized to accept repair or replacement if, in his discretion, it is considered to be in the best interests of the United States.

(k) *Release.* The commanding officer or officer in charge is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

§ 757.6 Waiver, compromise, and referral of claims.

(a) *Officials authorized to compromise claims.* The officers identified in § 757.5(b) may collect the full amount on all claims, and may compromise, execute releases or terminate collection action on all claims of \$20,000.00 or less. Collection action may be terminated for the convenience of the Government if the tortfeasor cannot be located, is found to be judgment-proof, has denied liability, or has refused to respond to repeated correspondence concerning legal liability involving a small claim. A termination for the convenience of the Government is made after it is determined that the case does not warrant litigation or that it is not cost-effective to pursue recovery efforts.

(b) *Claims over \$100,000.00.* Claims in excess of \$100,000.00 may not be compromised for less than the full amount or collection action terminated without approval from the Department of Justice (DOJ).

(c) *Notification.* The Judge Advocate General shall be notified prior to all requests made to the DOJ to compromise, terminate collection, or referral for further collection action or litigation.

32 CFR Ch. VI (7-1-02 Edition)

(d) *Litigation Reports.* Litigation reports prepared in accordance with 4 CFR part 103 shall be forwarded to the DOJ along with any case file forwarded for further collection action or litigation as required by the Federal Claims Collections Standards.

§§ 757.7-757.10 [Reserved]

Subpart B—Medical Care Recovery Act (MCRA) Claims

§ 757.11 Scope of subpart B.

Subpart B describes the assertion and collection of claims for medical care under the Medical Care Recovery Act (MCRA). The MCRA states that when the Federal Government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party legally liable for the injury or disease.

§ 757.12 Statutory authority.

Medical Care Recovery Act, 42 U.S.C. 2651-2653 (1982).

§ 757.13 Responsibility for MCRA action.

(a) *JAG designees.* (1) Primary responsibility for investigating, asserting, and collecting Department of the Navy (DON) MCRA claims and properly forwarding MCRA claims to other Federal departments or agencies rests with the following officers:

(i) Commanding officers and officers in charge, Naval Legal Service Command (NLSC) activities, in their areas of geographic responsibility;

(ii) Officer in charge, U.S. Sending State Office, Rome in his area of geographic responsibility.

(2) JAG designees may assert and receive full payment on any MCRA claim. They may, however, agree to compromise or waive only claims for \$40,000.00 or less. Claims in excess of \$40,000.00 may be compromised or waived only with DOJ approval. Such claims will be forwarded to the Judge Advocate General in accordance with § 757.6. See § 757.7 for further discussion of waiver and compromise.

(b) *Navy Medical Treatment Facilities (MTF).* (1) Naval MTF's are responsible

Department of the Navy, DoD

§ 757.14

for ensuring potential MCRA claims are brought to the attention of the appropriate NLSC activity or U.S. Sending State Office (USSSO).

(2) The MTF reports all potential MCRA cases by forwarding a copy of the daily injury log entries and admissions records to the cognizant NLSC activity or USSSO within 7 days of treatment for which a third party may be liable. The NLSC activity or USSSO makes the determination of liability.

(i) MTF computes the value of the care it provided on NAVJAG Form 5890/12. Rates used to compute this value are published annually in the FEDERAL REGISTER by the Office of Management and Budget.

(ii) Block 4 of NAVJAG Form 5890/12 requires a statement from the patient describing the circumstances of the injury or disease.

(iii) An “interim” report is prepared for inpatients only. An interim report is prepared every 4 months until the patient is released, transferred or changed to an outpatient status.

(iv) A “final” report is prepared for all patients when inpatient and outpatient treatment is completed or the patient’s care is transferred to another facility. A narrative summary should accompany the final report in all cases involving inpatient care. In addition, the back side of NAVJAG Form 5890/12 is completed as part of the final report when the value of Federal Government care exceeds \$1,000.00.

(c) *The Office of Medical and Dental Affairs (OMA).* The office pays emergency civilian medical expenses incurred by active duty members. This office furnishes MCRA claims information to the NLSC activity or USSSO. The address is Bldg. 38H, U.S. Naval Training Center, Great Lakes, IL 60088-5200.

(d) *Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) contractors.* CHAMPUS contractors forward reports of payments in injury cases to the appropriate NLSC activity. Responsible JAG designees should, however, initiate regular contact with contractors within their geographic area to ensure all relevant cases have been reported.

(e) *Department of Justice (DOJ).* Only the DOJ may authorize compromise or

waiver of an MCRA claim in excess of \$40,000.00; settle an MCRA claim which was previously forwarded by the DON to DOJ for action; or settle an MCRA claim in which the third party has filed a suit against the United States or the injured person as a result of the incident which caused the injury.

§ 757.14 Claims asserted.

(a) *General.* The DON asserts MCRA claims when medical care is furnished to Navy and Marine Corps active duty personnel, retirees, or their dependents, and third-party tort liability for the injury or disease exists. Claims are asserted when the injured party is treated in a military MTF or when the DON is responsible for reimbursing a non-Federal care provider. Claims for medical care furnished are also asserted using alternate theories of recovery if the MCRA does not apply. See § 757.14(e).

(b) *Independent cause of action.* The MCRA creates an independent cause of action for the United States. The Government can administratively assert and litigate MCRA claims in its own name and for its own benefit. Procedural defenses, such as a failure of the injured person to properly file and/or serve a complaint on the third party, that may prevent the injured person from recovering, do not prevent the United States from pursuing its own action to recover the value of medical treatment provided to the injured person. The right arises directly from the statute; the statutory reference to subrogation pertain only to one mode of enforcement. In creating an independent right in the Government, the Act prevents a release given by the injured person to a third party from affecting the Government’s claim.

(c) *Liable parties.* MCRA claims may be asserted against individuals, corporations, associations and non-Federal Government agencies subject to the limitations described in § 757.15.

(d) *Reasonable value of medical care.* The reasonable value of medical care provided to an injured person is determined:

(1) By using the rates set by the Office of Management and Budget and published in the FEDERAL REGISTER for